



## **Statement of Proposal**

### **Proposed Amended Dangerous, Affected and Insanitary Buildings Policy**

## **Nelson City Council's Dangerous, Affected and Insanitary Buildings Policy**

Nelson City Council has reviewed its current Dangerous, Affected and Insanitary Buildings Policy and is proposing to amend it. Council would like to know what you think of the proposed amendments. The purpose of the policy is to set out Council's approach and priorities with respect to dangerous, affected and insanitary buildings as required under the Building Act 2004 (the Act).

### **1. Introduction**

The Act provides Council with specific powers when a building is identified as dangerous, affected or insanitary. It requires Council to have a policy which sets out its approach and priorities with respect to dangerous, affected and insanitary buildings and how these will apply to heritage buildings. Council's first Earthquake-prone, Dangerous and Insanitary Buildings Policy was adopted in 2006.

The policy was renamed and amended in 2017 as a result of changes to the Act. It was last reviewed in 2019 and the revised policy was adopted by Council on 5 March 2020.

Since then, Council has reviewed the policy and is proposing amendments primarily to:

- accommodate amendments to the Act in relation to the emergency management of buildings, and
- improve readability, remove duplication, , improve consistency with related policies and add contextual information.

Under the Act the policy must state:

- the approach that the territorial authority will take in performing its functions under the relevant Part of the Act; and
- the territorial authority's priorities in performing those functions; and
- how the policy will apply to heritage buildings.

Dangerous, Affected and Insanitary are defined as:

|                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Dangerous (s121)  | A building is <b>dangerous</b> for the purposes of this Act if, -<br>(a) in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause:<br>(i) injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property;<br>or<br>(ii) damage to other property; or<br>(b) in the event of fire, injury or death to any persons in the building or to persons on other property is likely.                                                                                                 |
| Affected (s121A)  | A building is an <b>affected building</b> for the purposes of this Act if it is adjacent to, adjoining, or nearby -<br>(a) a dangerous building as defined in <a href="#">section 121</a> ; or<br>(b) a dangerous dam within the meaning of <a href="#">section 153</a> .                                                                                                                                                                                                                                                                                                 |
| Insanitary (s123) | A building is <b>insanitary</b> for the purposes of this Act if the building -<br>(a) is offensive or likely to be injurious to health because:<br>(i) of how it is situated or constructed; or<br>(ii) it is in a state of disrepair; or<br>(b) has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or<br>(c) Does not have a supply of potable water that is adequate for its intended use; or<br>(d) Does not have sanitary facilities that are adequate for its intended use. |

## 2. Considerations under the Local Government Act 2002

Council is required by section 132 of the Building Act 2004 to use the special consultative procedure to amend its Dangerous, Affected and Insanitary Buildings Policy. This Statement of Proposal has therefore been prepared in accordance with the relevant sections of the Local Government Act 2002, including sections 82, 83 and 87.

## 3. Submissions

Anyone may make a submission about any aspect of Council's proposal. Council, in making its decision, will take account of all submissions made. Written submissions must be received no later than 4:00 pm, 11 November 2024.

A submission form is available to download at [shape.nelson.govt.nz/](https://shape.nelson.govt.nz/) or can be requested

from the Customer Service Centre at Nelson City Council. Submissions can be made:

- online at [shape.nelson.govt.nz/](https://shape.nelson.govt.nz/)
- by post to Dangerous, Affected and Insanitary Buildings Policy, Nelson City Council, PO Box 645, Nelson 7010
- by email to [submissions@ncc.govt.nz](mailto:submissions@ncc.govt.nz)
- by delivering your submission to Civic House, 110 Trafalgar Street, Nelson.

Please state in your submission whether or not you wish to speak in support of your submission at the hearing in November. The hearing will be held in public, and anyone can attend. It will also be recorded and able to be viewed online.

Another option is to speak at the hearing without making a written submission. Please let us know by 4:00 pm, 11 November 2024 if you wish to do this, by sending an email to [submissions@ncc.govt.nz](mailto:submissions@ncc.govt.nz) or calling us on 03 546-0200.

All submissions (including your name and contact details) will be provided to Council officers for administration and analysis, and to those who are involved in decision making on the consultation. All submissions, including submitter names (unless you request otherwise) but not contact details, will be publicly available online. The body of your submission and any attachments will not be checked for personal information, and it should be assumed that anything included in these will be made public. Council is subject to the Local Government Official Information and Meetings Act 1987 and a request for official information may cover your submission, including your address and other contact details.

#### **4. The Proposal**

Council is proposing to adopt the amended Dangerous, Affected and Insanitary Buildings Policy (the Policy). The key changes from the current policy are:

- adding explicit reference to the purpose and principles of the Act;
- accommodating amendments to the Act with relation to the emergency management of buildings that commenced in November 2019. During a declared emergency or for buildings in a designated area (buildings affected by emergency), buildings that do not already have Notices under the Policy are subject to subpart 6B of Part 2 of the Act and are not subject to the Policy;
- clarifying the definition of heritage building in the context of those amendments, and adding to the definition buildings listed in the Nelson Resource Management Plan Appendix 1 Heritage Buildings, Places and Objects;
- clarifying that the Policy does not apply to dams;
- proposing to charge property owners for hoarding or fencing installation and maintenance beyond 10 days;
- matching the Policy wording with existing requirements and practice not to remove information from a property file;

- clarifying that future amendments to legislation would take precedence over wording in the Policy
- adding links to sections of legislation to improve usability;
- removing unnecessary duplication of sections in the Policy on actions Council will take in performing its functions; and
- taking account of MBIE guidance for developing policies on dangerous, affected and insanitary buildings.

The attached amended policy document identifies the main changes to the policy content with a change in font colour and deletions with strike through. Document identification, table of contents and editorial changes have not been tracked.

## 5. Options

Options considered include:

- option 1– amend the current policy as proposed (preferred option)
- option 2 - maintaining the status quo by retaining the existing policy

| <b>Option 1 (preferred option):<br/>Consult on the proposed amended Dangerous, Affected Insanitary Buildings Policy</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Advantages                                                                                                              | <ul style="list-style-type: none"><li>• Consultation provides an opportunity for the community to share their views with Council on the proposed Policy</li><li>• The proposed policy accommodates amendments to the Building Act 2004</li><li>• The proposed policy improves readability and removes duplication within the current policy</li><li>• Legislated requirements relating to a review and adoption are met</li><li>• The proposed policy incorporates consideration of Ministry of Business, Innovation and Employment (MBIE) guidance for developing policies on dangerous, affected and insanitary buildings</li></ul> |
| Risks and Disadvantages                                                                                                 | <ul style="list-style-type: none"><li>• No significant risks or disadvantages</li><li>• Some potential reputational risk if consultation is not communicated and conducted effectively</li></ul>                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Option 2: Status quo - Retain the current Policy</b>                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Advantages                                                                                                              | <ul style="list-style-type: none"><li>• Does not require a consultation process</li><li>• Savings in staff time and costs</li></ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Risks and Disadvantages                                                                                                 | <ul style="list-style-type: none"><li>• The current Policy will not be in accordance with the Building Act 2004</li><li>• A lack of clarity of the approach that will be taken in performing functions,</li><li>• Increased legal risk</li><li>• The current policy does not take account of MBIE guidance for developing policies on dangerous, affected and insanitary buildings</li><li>• Reputational risk due to inaction for incorporating legislation changes</li></ul>                                                                                                                                                        |

## 6. Scope of Council decisions following consultation

Once Council has considered all submissions on the proposed Policy, it will make a decision to either:

- adopt the proposed Dangerous, Affected or Insanitary Buildings Policy; or
- adopt the proposed Dangerous, Affected or Insanitary Buildings Policy with modifications, considering community feedback; or
- not adopt the proposed Dangerous, Affected or Insanitary Buildings Policy – no change to the current Dangerous, Affected or Insanitary Buildings Policy 2006, last approved on 5 March 2020.



## **PROPOSED POLICY FOR CONSULTATION**

### **Proposed amended Dangerous, Affected and Insanitary Buildings Policy**



## **CURRENT POLICY FOR REFERENCE**

### **Current Dangerous, Affected and Insanitary Buildings Policy 2006**